

Amendment No. 1 to HB2323

Sexton C
Signature of Sponsor

AMEND Senate Bill No. 2443

House Bill No. 2323*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 63, Chapter 1, is amended by adding the following as a new part:

63-1-501. This part shall be known and may be cited as the "Health Care Empowerment Act".

63-1-502. As used in this part:

(1) "Direct primary care agreement" means a written contractual agreement between a primary care physician and an individual patient, or the patient's legal representative, in which:

(A) The physician agrees to provide primary care services to the individual patient for an agreed fee over an agreed period of time;

(B) The direct primary care physician will not bill third parties on a fee-for-service basis;

(C) Any per-visit charges under the agreement will be less than the monthly equivalent of the periodic fee;

(D) The agreement describes the scope of primary service that is covered by the periodic fee;

(E) The agreement contains the following disclosures, or substantially similar disclosures, that are conspicuously visible in the agreement in bold font:

(i) The agreement does not constitute health insurance under the laws of this state;

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(ii) An uninsured patient that enters into a direct primary care agreement may still be subject to tax penalties under the Patient Protection and Affordable Care Act, Public Law 111-148, for failing to obtain insurance;

(iii) Patients insured by health insurance plans that are compliant with the Patient Protection and Affordable Care Act already have coverage for certain preventative care benefits at no cost to the patient;

(iv) Payments made by a patient for services rendered under a direct primary care agreement may not count towards the patient's health insurance deductibles and maximum out-of-pocket expenses;

(v) A patient is encouraged to consult with the patient's health insurance plan, before entering into the agreement and receiving care; and

(vi) A physician who breaches the agreement may be liable for damages and may be subject to professional discipline by the board of medical examiners;

(F) The agreement specifies the duration of the agreement, including automatic renewal periods; and

(G) The patient is not required to pay more than twelve (12) months of the fee in advance; provided, that the contracted fee may be paid on a payment

schedule agreed to by physician and patient that may be due on a monthly, quarterly, or yearly basis;

(2) "Direct primary care physician" means an individual or legal entity that is licensed, registered, or otherwise authorized to provide primary care services in this state under this title, and who chooses to enter into a direct primary care agreement. A direct primary care physician includes an individual primary care physician or other legal entity, alone or with others professionally associated with the physician or other legal entity;

(3) "Medical products" include medical drugs and pharmaceuticals;

(4) "Physician" means a physician licensed under chapter 6 or 9 of this title; and

(5) "Primary care service" includes the screening, assessment, diagnosis, and treatment for the purpose of promotion of health or the detection and management of disease or injury within the competency and training of the direct primary care physician.

63-1-503.

(a) Nothing in state law shall be construed as prohibiting a patient or a legal representative of a patient from seeking care outside of an insurance plan, or outside of the TennCare or medicare program, and paying for such care.

(b) Nothing in the law of this state shall be construed as prohibiting a physician, other medical professional licensed under this title, or a healthcare facility, licensed under title 33 or 68, from accepting payment for services or medical products outside of an insurance plan. Nothing in the law of this state shall prohibit a physician, other medical professional, or a medical facility from accepting payment for services or medical products provided to a TennCare or medicare beneficiary.

(c) A patient or legal representative shall not forfeit insurance benefits, TennCare benefits, or medicare benefits by purchasing medical services or medical products outside the system.

(d) The offer and provision of medical services or medical products purchased and provided under this part shall not be deemed an offer of insurance nor regulated by the insurance laws of the state.

63-1-504.

(a) A direct primary care agreement is not insurance and is not subject to regulation by the department of commerce and insurance.

(b) Entering into a direct primary care agreement is not the business of insurance and is not subject to regulation under title 56.

(c) A direct primary care physician or the agent of a direct primary care physician is not required to obtain a certification of authority or license under the Tennessee Insurance Producer Licensing Act of 2002, compiled in title 56, chapter 6 to market, sell, or offer to sell a direct primary care agreement.

(d) A direct primary care agreement is not a discount medical plan.

(e) A direct primary care agreement shall:

(1) Allow either party to terminate the agreement upon written notice to the other party;

(2) Provide that fees are not earned by the direct primary care physician until the month paid by the periodic fee has been completed; and

(3) Provide that, upon termination of this agreement by the individual patient, all unearned fees are to be returned to the patient.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.